

AMENDED IN SENATE AUGUST 7, 2006
AMENDED IN ASSEMBLY JANUARY 9, 2006
AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 827

Introduced by Assembly Member Goldberg

February 18, 2005

An act to amend ~~Section 94831~~ *Sections 94831 and 94834* of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 827, as amended, Goldberg. Private postsecondary education: consumer credit regulations.

(+) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act renders it inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

An existing provision of the act prohibits a private postsecondary or vocational institution that is subject to the act from taking any of various specified actions or from failing to comply with federal requirements relating to the disclosure of information to students

regarding vocational and career training programs. A violation of this provision is punishable as a crime.

This bill would also prohibit a private postsecondary or vocational institution that is subject to the act from failing to comply with a specified federal regulation relating to the notices required to be continued in a consumer credit contract, ~~thereby imposing a state-mandated local program by creating a new crime and would require a specified statement to be included in prescribed consumer credit contracts, but would specify that violation of the provision added by this bill is not punishable as a crime.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 94831 of the Education Code is
2 amended to read:
3 94831. No institution, or representative of that institution,
4 shall do any of the following:
5 (a) Operate in this state a postsecondary educational institution
6 not exempted from this chapter, unless the institution is currently
7 approved to operate pursuant to this chapter. The bureau may
8 institute an action, pursuant to Section 94955, to prevent any
9 individual or entity from operating an institution in this state that
10 has not been approved to operate pursuant to this chapter and to
11 obtain any relief authorized by that section.
12 (b) Offer in this state, as or through an agent, enrollment or
13 instruction in, or the granting of educational credentials from, an
14 institution not exempted from this chapter, whether that
15 institution is within or outside this state, unless that agent is a
16 natural person and has a currently valid agent's permit issued
17 pursuant to this chapter, or accept contracts or enrollment
18 applications from an agent who does not have a current permit as
19 required by this chapter. The bureau, however, may adopt

1 regulations to permit the rendering of legitimate public
2 information services without a permit.

3 (c) Instruct or educate, or offer to instruct or educate,
4 including soliciting for those purposes, enroll or offer to enroll,
5 contract or offer to contract with any person for that purpose, or
6 award any educational credential, or contract with any institution
7 or party to perform any act, in this state, whether that person,
8 agent, group, or entity is located within or without this state,
9 unless that person, agent, group, or entity observes and is in
10 compliance with the minimum standards set forth in this article
11 and Article 7 (commencing with Section 94850), if it is
12 applicable.

13 (d) Use, or allow the use of, any reproduction or facsimile of
14 the Great Seal of the State of California on any diploma.

15 (e) Promise or guarantee employment.

16 (f) Advertise concerning job availability, degree of skill, and
17 length of time required to learn a trade or skill, unless the
18 information is accurate and in no way misleading.

19 (g) Advertise, or indicate in any promotional material, that
20 correspondence instruction, ~~or correspondence courses of study~~
21 ~~are or a correspondence course of study~~ is offered without
22 including in all advertising or promotional material the fact that
23 the instruction or programs of study are offered by
24 correspondence or home study.

25 (h) Advertise, or indicate in any promotional material, that
26 resident instruction, ~~or programs of study are or a program of~~
27 ~~study~~ is offered without including in all advertising or
28 promotional material the location where the training is given or
29 the location of the resident instruction.

30 (i) Solicit students for enrollment by causing any
31 advertisement to be published in "help wanted" columns in any
32 magazine, newspaper, or publication, or use "blind" advertising
33 that fails to identify the school or institution.

34 (j) Advertise, or indicate in any promotional material, that the
35 institution is accredited, unless the institution has been
36 recognized or approved as meeting the standards established by
37 an accrediting agency recognized by the United States
38 Department of Education or the Committee of Bar Examiners for
39 the State of California.

1 (k) Fail to comply with federal requirements relating to the
2 disclosure of information to students regarding vocational and
3 career training programs, as described in Section 94816.

4 ~~(l) Fail to comply with Part 433 commencing with Section~~
5 ~~433.1~~

6 *(1) Fail to comply with Part 433 (commencing with Section*
7 *433.1) of Title 16 of the Code of Federal Regulations as it exists*
8 *on January 1, 2007, and as it is amended from time to time*
9 *thereafter.*

10 *(2) For each student who enters into a consumer credit*
11 *contract that is subject to Part 433 (commencing with Section*
12 *433.1) of Title 16 of the Code of Federal Regulations as it exists*
13 *on January 1, 2007, and as it is amended from time to time*
14 *thereafter, the institution shall include the following statement in*
15 *any written contract or agreement for educational services or, in*
16 *the alternative, shall provide the student with a separate written*
17 *notice containing the following statement:*

18 *“YOU MAY ASSERT AGAINST THE HOLDER OF THE*
19 *PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE*
20 *THE COST OF INSTRUCTION ALL OF THE CLAIMS AND*
21 *DEFENSES THAT YOU COULD ASSERT AGAINST THIS*
22 *SCHOOL, UP TO THE AMOUNT YOU HAVE ALREADY PAID*
23 *UNDER THE PROMISSORY NOTE.”*

24 *(3) The statement set forth in paragraph (2) shall be printed in*
25 *boldface print of at least 12-point size.*

26 *SEC. 2. Section 94834 of the Education Code is amended to*
27 *read:*

28 94834. (a) Any person or business entity, regardless of the
29 form of organization that willfully violates Section 94800,
30 Sections 94810 to 94826, inclusive, ~~or~~ Section 94828, Section
31 94829, subdivisions (a) to (k), inclusive, of Section 94831, or
32 Section 94832 is guilty of a crime and shall be subject to separate
33 punishment for each violation either by imprisonment in a county
34 jail not to exceed one year, by a fine not to exceed ten thousand
35 dollars (\$10,000), or by both that imprisonment and fine; or by
36 imprisonment in the state prison, by a fine not to exceed fifty
37 thousand dollars (\$50,000), or by both that imprisonment and
38 fine.

39 (b) Notwithstanding any other *provision of* law, any
40 prosecution under this section shall be commenced within three

1 years of the discovery of the facts constituting grounds for
2 commencing the prosecution.

3 (c) The penalties provided by this section supplement, but do
4 not supplant, the remedies and penalties provided under other
5 law.

6 (d) In addition to any other fines or penalties imposed pursuant
7 to this section, any person or business entity found guilty of a
8 crime as described in subdivision (a) shall be ordered to pay the
9 Attorney General, any district attorney, or any city attorney all of
10 their costs and expenses in connection with any investigation
11 incident to that prosecution. An institution shall not be required
12 to pay the same costs and expenses to more than one
13 investigating agency.

14 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
15 ~~Section 6 of Article XIII B of the California Constitution because~~
16 ~~the only costs that may be incurred by a local agency or school~~
17 ~~district will be incurred because this act creates a new crime or~~
18 ~~infraction, eliminates a crime or infraction, or changes the~~
19 ~~penalty for a crime or infraction, within the meaning of Section~~
20 ~~17556 of the Government Code, or changes the definition of a~~
21 ~~crime within the meaning of Section 6 of Article XIII B of the~~
22 ~~California Constitution.~~